

# CITY COUNCIL REPORT



Meeting Date: August 27, 2019  
General Plan Element: *Provide for the orderly administration of the affairs of the City*  
General Plan Goal: *Fiscal management*

## ACTION

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**Adopt Resolution No. 11565 authorizing settlement.** Consider adopting Resolution No. 11565 authorizing the Mayor to enter into Contract No. 2019-153-COS on behalf of the City to settle the lawsuit entitled *Daniel Reiss and Courtney Reiss v. City of Scottsdale, et al.*, currently pending in Maricopa County Superior Court, CV2018-010843.

### Background

This litigation arises out of an accident that occurred at Fire Station 601 on February 3, 2018, wherein a young child was fatally injured. The Plaintiffs, Courtney and Dan Reiss, initially demanded a \$9,000,000 settlement from the City to resolve their wrongful death claim. Thereafter, Plaintiffs filed suit against the City and several other parties ("Co-Defendants") for the alleged wrongful death of their son and the emotional distress of Courtney Reiss. The City Attorney's Office with the assistance of retained private counsel have worked to defend the City against this case arising out of a tragic accident. The case has been actively litigated over the past year with numerous depositions taken, thousands of pages of documents examined, and consultation with several expert witnesses. Currently, the case is still in the discovery phase of litigation.

## ANALYSIS & ASSESSMENT

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### Recent Staff Action

The City recently participated in a mediation with all involved parties and were able to reach a settlement of all claims against the City, subject to City Council approval. After more than a year of active litigation and a full day of settlement negotiations, the Plaintiffs agreed to accept the sum of \$1,500,000 from the City, which is within the City's self-insured retention of \$2,000,000. The City agreed to dismiss its cross-claims and requests for defense and indemnification against the Co-Defendants. **The settlement provides that all parties, including the City, will keep the settlement confidential except to the extent disclosure is required by law.** In addition to this settlement agreement with the City, the Plaintiffs and the Co-Defendants have entered into a separate confidential settlement agreement to resolve their separate claims.

The City Attorney's Office, in consultation with the Risk Management Department, recommends in favor of the proposed settlement to eliminate the risk and uncertainty of trial.

## RESOURCE IMPACTS

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### Available funding

The proposed settlement will require a total payment of \$1,500,000 from the City. Funds are available in the City's Risk Management Operating Budget, Account No. 710-01065-52481.

### Staffing, Workload Impact

Approval of the proposed settlement brings this case to a conclusion and will eliminate the need for staff resources from the City Attorney's Office, Risk Management, Fire Department and other Departments to be spent on this case.

### Future Budget Implications

The proposed total settlement of \$1,500,000 may be included in the City's primary property tax rate for the next year. The eligibility of settlement and judgment payments for possible inclusion in the City's primary property tax rate is based upon an Arizona Attorney General opinion. The City of Scottsdale has a practice of including paid tort settlements equal to or greater than \$20,000.00 in the City's primary tax rate to reimburse the Self-Insured Fund for payment of the claim.

## OPTIONS & STAFF RECOMMENDATION

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### Recommended Approach

Adopt Resolution No. 11565 authorizing the Mayor to execute Contract No. 2019-153-COS authorizing settlement to be paid in the amount of \$1,500,000.

### Proposed Next Steps

If the settlement is approved, the Mayor will execute Contract No. 2019-153-COS, City staff will pay the settlement amount within a reasonable time thereafter, and the City Attorney's Office will obtain a dismissal of the litigation.

## RESPONSIBLE DEPARTMENT(S)

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General Government, City Attorney's Office - Civil Division  
Risk Management Department

## STAFF CONTACTS (S)

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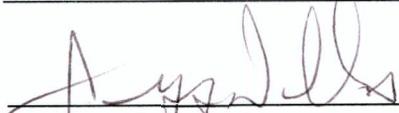
Joe Padilla, Acting City Attorney, [jpadilla@scottsdaleaz.gov](mailto:jpadilla@scottsdaleaz.gov)  
Sherry R. Scott, Deputy City Attorney, [sscott@scottsdaleaz.gov](mailto:sscott@scottsdaleaz.gov)

## APPROVED BY

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**City Council Report | Authorizing Settlement**

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Jeff Nichols, City Treasurer  
(480) 312-2364  
[jenichols@scottsdaleaz.gov](mailto:jenichols@scottsdaleaz.gov)

8/20/19

Date



Joe Padilla, Acting City Attorney  
(480) 312-2405  
[ipadilla@scottsdaleaz.gov](mailto:ipadilla@scottsdaleaz.gov)

8-20-19

Date

**ATTACHMENTS**

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1. Resolution No. 11565
2. Contract No. 2019-153-COS

RESOLUTION NO.11565

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING SETTLEMENT OF THE LAWSUIT ENTITLED *DANIEL REISS AND COURTNEY REISS V. CITY OF SCOTTSDALE, ET AL.*, FILED IN MARICOPA COUNTY SUPERIOR COURT, CV2018-010843, AND AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2019-153-COS SUBJECT TO THE ACTING CITY ATTORNEY'S APPROVAL OF THE FINAL SETTLEMENT AGREEMENT AND SIGNATURES.

WHEREAS, Plaintiffs in the lawsuit entitled Daniel Reiss and Courtney Reiss v. City of Scottsdale, et al. filed in Maricopa County Superior Court, CV2018-010843 assert claims against the City of Scottsdale and others, seeking to recover for damages arising from the death of their son at City Fire Station 601, 1901 N. Miller Road, Scottsdale, on or about February 3, 2018;

WHEREAS, the parties have agreed to resolve the disputed issues and compromise the claims by settling herein; and

WHEREAS, it is in the best interest of the City to effectuate a settlement of all claims against the City in the matter of Daniel Reiss and Courtney Reiss v. City of Scottsdale, et al., Maricopa County Superior Court Case No. CV2018-010843.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council authorizes the Mayor to execute Contract No. 2019-153-COS on behalf of the City subject to the Acting City Attorney's approval of the final settlement agreement and signatures to settle this case in the amount of One Million Five Hundred Thousand Dollars and No Cents (\$1,500,000.00) from funds to be paid from the City's Risk Management Operating Budget (Account No. 710-01065-52481) for settlement of the aforementioned claims and case.

Section 2. That the City Council approves the settlement set forth above and authorizes and directs the City Manager, the City Treasurer, and City Attorney, and their respective staffs to execute such documents and take such other actions as are necessary to carry out the purpose of the Resolution.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 27th day of August, 2019.

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

\_\_\_\_\_  
W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Joe Padilla, Acting City Attorney

**SETTLEMENT AGREEMENT AND RELEASE**

*This Settlement Agreement and Release* (the "Settlement Agreement") is made and entered into, by and between *Daniel Reiss and Courtney Reiss, father and mother of Joseph (Joey) Reiss, deceased* ("Plaintiffs") and the *City of Scottsdale, a governmental entity* ("COS"), and by and between *COS and Door Engineering and Manufacturing, LLC, Byron Epp, Inc., Caliente Construction, Inc., WLC Architects, Inc., C & D Garage Doors, LLC, and/or D. H. Pace Company, Inc.*, (collectively referred to as "Co-Defendants"). The Plaintiffs, COS, and Co-Defendants are collectively referred to herein as "the Parties."

**Recitals**

A. *On or about February 3, 2018, Plaintiffs' son, Joey Reiss was fatally injured as a result of an incident* ("Subject Incident") *which occurred at City of Scottsdale's Fire Station #601 located at 1901 N. Miller Road, Scottsdale, Arizona.* Plaintiffs allege that the Subject Incident and resulting physical and personal injuries, and death of Joey Reiss, arose out of certain alleged negligent acts or omissions of COS, and have made a claim seeking monetary damages on account of those injuries. Plaintiffs filed a First Amended Complaint on January 16, 2019 now pending in *Superior Court of the State of Arizona in and for the County of Maricopa, entitled Daniel Reiss, et al., Plaintiffs vs. City of Scottsdale, et al.* ("the Complaint"), *and identified with Case No: CV2018-010843.*

B. The Plaintiffs are the only statutory beneficiaries authorized to bring a wrongful death claim for Joey Reiss' death pursuant to A.R.S. §12-612.

C. Despite the fact that liability has not been admitted regarding the claims asserted by the Plaintiffs, the Parties desire to finally and fully resolve all past, present, and potential disputes, claims, and issues as between the Parties relating to or arising out of the Subject Incident and the facts and circumstances that gave rise to the Subject Incident and death of Joey Reiss. As a result, this Settlement Agreement has been negotiated and entered into in an effort to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation. This Settlement Agreement is intended, subject to Recital Paragraph D below, to resolve any dispute which may exist between the Parties. The Parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which are, or might have been, brought against COS as a result of the Subject Incident, upon the terms and conditions set forth below.

D. This Settlement Agreement does not create contractual obligations or rights as between the Co-Defendants and the Plaintiffs, those parties having entered into a separate confidential settlement agreement to resolve their separate claims regarding the Subject Incident.

E. The "Subject Incident" also gives rise to claims for defense, indemnification and/or contribution that COS may have against others, including but not limited to Co-Defendants and their insurance carriers. COS and Co-Defendants desire to finally and fully resolve all past, present, and potential disputes, claims, appeals and issues between COS and the Co-Defendants regarding COS's cross-claims and requests for defense and indemnification. As a result, this Settlement Agreement has been negotiated and entered into in an effort to avoid further expense, inconvenience, potential liability of costs, and the distraction of burdensome and protracted litigation. This Settlement Agreement is intended to resolve any dispute which may exist arising in any way out of COS's cross-claims and requests for defense and indemnification against the Co-Defendants. The Parties agree that this Settlement Agreement provides good and valuable consideration in exchange for the dismissal of COS's cross-claims and requests for defense and indemnification against the Co-Defendants. COS desires to enter into this Settlement Agreement to provide for an agreement to not seek any potential costs in full settlement and discharge of all claims which are, or might have been, the subject of COS's cross-claims and requests for defense and indemnification.

### **Agreement**

The Parties agree as follows:

#### **1.0 Release and Discharge**

1.1 In consideration of the payments set forth in Section 2, Plaintiffs hereby completely release and forever discharge COS from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses of service, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory of recovery, which the Plaintiffs now have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of, or which are the subject of the Subject Incident, without limitation, any and all known or unknown claims, including any and all claims by Courtney Reiss for negligent infliction of emotion distress, any and all claims by Plaintiffs for bodily and personal injuries to and the death of Plaintiffs' son Joey Reiss, or any wrongful death claim of Plaintiffs' representatives or heirs, which have resulted or may result from the alleged acts or omissions of COS.

1.2 This release and discharge shall also apply to COS's past, present, and future elected and appointed officials, directors, stockholders, attorneys, agents, insurers, servants, representatives, employees, subsidiaries, affiliates, partners, family members, predecessors, spouses, officers, and successors in interest, and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated. This Settlement Agreement does not release or discharge any of Plaintiffs' claims against Co-Defendants, those claims being addressed by separate agreement.

1.3 This release, on the part of the Plaintiffs, shall be a fully binding and complete settlement among the Plaintiffs and COS, and between COS and Co-Defendants, and shall be binding on the Parties' heirs, assigns and successors.

1.4 The Plaintiffs acknowledge and agree that the release and discharge set forth above is a general release of COS and the related parties listed in section 1.2. Plaintiffs expressly waive and assume the risk of any and all claims for damages which exist as of this date, but of which the Plaintiffs do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect Plaintiffs' decision to enter into this Settlement Agreement. The Plaintiffs further agree that they have accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. The Plaintiffs assume the risk that the facts or law may be other than what the Plaintiffs believe. It is understood and agreed to by the Parties that this settlement is a compromise of disputed claims, and the payments are not to be construed as an admission of liability on the part of COS, by whom liability is expressly denied.

1.5 Plaintiffs warrant that out of the proceeds paid pursuant to Section 2 of this Settlement Agreement, they will satisfy any and all unpaid and unsatisfied valid hospital or medical bills and/or valid liens, including, but not limited to: Medicare/Medicaid liens, ERISA liens, liens pursuant to A.R.S. § 33-931 *et seq.*, AHCCCS Liens, liens falling under applicable Arizona law, and that they will indemnify and hold harmless COS, and its insurance carriers, agents and representatives, past, present, and future elected and appointed officials, spouses and dependents from any and all claims, demands, actions and causes of action, and all liability whatsoever, including, but not limited to costs, attorneys' fees or judgment which might arise from a valid unpaid or unsatisfied hospital or medical bill and/or valid lien or valid lien of any other kind which applies to the proceeds paid herein. This includes, but is not limited to, valid liens asserted by or on behalf of AHCCCS.

1.6 COS and Co-Defendants hereby mutually and completely release and forever discharge each other, and each other's officers, directors, employees, managers, agents, accountants, members, shareholders, affiliates, insurers, attorneys, heirs, trusts, partners, representatives, related entities, successors and assigns from and against any and all claims, rights, demands, suits, causes of action, damages, penalties, costs, fees, expenses, and liabilities of any nature, known and unknown, matured or unmatured that COS and Co-Defendants have, may have, or have ever had, against each other, arising out of any act, occurrence or transaction pertaining to the Subject Incident, including without limitation any claim or cause of action that was, or could have been asserted in the lawsuit described in Recital Paragraph A.

## **2.0 Payments**

2.1 In consideration of the release set forth above, COS agrees to pay to the individuals named below the sums outlined in Section 2.1 below:

Payment as follows:

- A. *One Million Five Hundred Thousand Dollars (\$1,500,000.00) with the check made payable to Lewis Roca Rothgerber Christie, LLP in Trust for Daniel Reiss and Courtney Reiss.***

### **3.0 Attorneys' Fees**

Each party hereto shall bear their own attorneys' fees and costs arising from the actions of their own counsel in connection with the Subject Incident, this Settlement Agreement and the matters and documents referred to herein, and all related matters.

### **4.0 Representations and Warranties**

4.1 In entering into this Settlement Agreement, the Plaintiffs represent that they have relied upon the advice of their attorneys, who are the attorneys of their own choice, concerning the legal and income tax consequences of this Settlement Agreement; that the terms of this Settlement Agreement have been completely read and explained to Plaintiffs by their attorneys; and that the terms of this Settlement Agreement are fully understood and voluntarily accepted by Plaintiffs.

4.2 This Settlement Agreement is the result of negotiations between Parties who have obtained legal advice concerning the meaning and effect of this Settlement Agreement, and they had sufficient time to consider the meaning and effect of this Settlement Agreement.

4.3 Any person executing this Settlement Agreement warrants that they have the full authority to enter into the terms and conditions of, and to execute this Settlement Agreement on behalf of the party for whom they are signing, irrespective of the competency of such party.

### **5.0 Delivery of Dismissal with Prejudice**

Within 30 days of full payment by COS of the amount stated in Paragraph 2.1 above, counsel for the Plaintiffs shall deliver to counsel for COS an executed Stipulation for Dismissal with Prejudice of all claims in the Complaint against COS. Plaintiffs hereby authorize counsel for COS to file said Stipulation with the Court and enter it as a matter of record.

### **6.0 Warranty of Capacity to Execute Agreement**

Plaintiffs represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein; that Plaintiffs have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that Plaintiffs have not sold, assigned, transferred, conveyed or

otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

### **7.0 Scope of Releases**

Without limiting the generality of the foregoing, the full release of all claims provided above applies to all claims between the Plaintiffs and COS and between COS and Co-Defendants that are in any way related to the Subject Incident, including, but not limited to, claims in contract, tort, or any other common law theory, in law or in equity, or under any other applicable state or federal statute, or any claim for attorney's fees or other damages, costs or expenses of any kind or nature. Each party agreeing to a release herein, hereby expressly waives and fully, finally, and forever settles and releases any known or unknown, suspected or unsuspected, claim with respect to the Subject Incident, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The release of unknown, unanticipated or unsuspected losses or claims is contractual, and not a mere recital. Plaintiffs further agree that there does not exist a Personal Representative for the Estate of Joseph Reiss. Plaintiffs further agree to defend, indemnify, and hold harmless COS for any claims made in the future on behalf of the Estate of Joseph Reiss.

### **8.0 No Admission**

Nothing in this Settlement Agreement shall constitute an admission by any of the Parties of any liability or wrongdoing whatsoever, but this Settlement Agreement represents a compromise and settlement of disputed claims and an effort to avoid further litigation expenses. This Settlement Agreement and the fact of settlement, including all negotiations, discussions, and proceedings connected with it, leading up to the settlement, as well as any action taken to carry out the terms of the settlement, shall not constitute any admission of liability or give rise to any presumption or inference of any violation of any statute or law or of any fault, wrongdoing, or liability whatsoever. Without limiting the foregoing, the Parties further agree that this Settlement Agreement does not manifest an acceptance of any other party's factual or legal positions taken or asserted.

### **9.0 Severability**

The provisions of this Settlement Agreement are independent of and separate and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. If any provision of this Settlement Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed modified and replaced by a provision, as similar in form, content and effect as possible, to the invalid or unenforceable provision and the Settlement Agreement shall be deemed reformed accordingly. Notwithstanding the foregoing, however, the obligations of either party shall be rendered null and void if the

material consideration for that party's obligations is or becomes unenforceable and no reasonable substitute provision with the same material effect is available to the parties.

#### **10.0 Governing Law and Construction**

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Arizona. This Settlement Agreement is the result of negotiations between the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement shall have no bearing upon the proper interpretation of this Settlement Agreement. This Settlement Agreement shall be construed and interpreted to effectuate the intent of the Parties, which is to provide, through this Settlement Agreement, for a complete resolution of any and all claims that could be made by any of Joseph Reiss' statutory beneficiaries (as per A.R.S. §12-612).

#### **11.0 Additional Documents**

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intents of this Settlement Agreement.

#### **12.0 Entire Agreement and Successors in Interest**

This Settlement Agreement contains the entire agreement between the Plaintiffs, COS and Co-Defendants with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. This Settlement Agreement, as well as the documents contemplated hereunder to effectuate this Settlement Agreement, is a fully integrated document, containing the entire understanding among the Parties, and supersedes and integrates any prior understandings or written or oral agreements or negotiations among the Parties respecting the subject matter hereof.

#### **13.0 Modifications and Amendments**

This Settlement Agreement shall not be amended or modified except as may be in writing and signed by all Parties to this Settlement Agreement.

#### **14.0 Headings**

The headings used in this Settlement Agreement are used for convenience of reference only and do not constitute substantive matter to be considered in construing the terms of this Settlement Agreement.

**15.0 Recitals**

The Recitals set forth herein are incorporated as a part of this Settlement Agreement, and the Parties hereto represent and warrant the truth of all that is contained in the Recitals, as it applies to the Party so representing. The Parties agree that the covenants set forth herein are contractual and not mere recitals.

**16.0 Counterparts and Facsimile**

This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument. Signatures of the Parties may be submitted via facsimile.

**17.0 Effectiveness**

This Settlement Agreement shall become effective immediately following execution by the Plaintiffs, COS and the Co-Defendants.

**18.0 Confidentiality**

The Parties agree to keep the terms and conditions of this settlement, including the amount, confidential except as required by law to be disclosed. Even if the amount of the settlement becomes public record, the Parties (including their attorneys) will not comment on the settlement except to say words to the effect of, "the case has settled." Plaintiffs, however, may discuss the settlement amount with their attorneys and financial advisors, after first informing them of this confidentiality agreement. No monetary consideration is paid for this confidentiality provision, but rather each party's agreement to confidentiality is consideration for the other party's agreement to confidentiality.

\_\_\_\_\_  
**DANIEL REISS**

**Date:** \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_,  
2019, by *Daniel Reiss*.

\_\_\_\_\_  
Notary Public

My Commission Expires

\_\_\_\_\_  
**COURTNEY REISS**

**Date:** \_\_\_\_\_

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2019, by *Courtney Reiss*.

My Commission Expires

\_\_\_\_\_  
Notary Public

Approved as to the content:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven J. Hulsman, Esq.  
Attorney for Plaintiff Daniel Reiss

\_\_\_\_\_  
Date

\_\_\_\_\_  
Evan S. Goldstein, Esq.  
Attorney for Plaintiff Courtney Reiss

CITY OF SCOTTSDALE, an Arizona Municipal Corporation

By: \_\_\_\_\_  
W.J. "Jim" Lane  
Mayor, City of Scottsdale

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Joe Padilla, Acting City Attorney

Dated: 8/20/19

STATE OF ARIZONA     )  
  )  
County of Maricopa     )     ss.

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned Notary Public, appeared \_\_\_\_\_, to me known (or satisfactorily proven) to be the person who executed the foregoing instrument and acknowledged that they executed the same as and for their free acts and deeds for the purposes contained therein.

My Commission Expires:

\_\_\_\_\_  
Notary Public



Approved as to the content:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jefferson T. Collins, Esq.  
Attorney for Door Engineering and  
Manufacturing, LLC

\_\_\_\_\_  
Byron Epp, Inc. Representative

\_\_\_\_\_  
Title

STATE OF ARIZONA     )  
  )  
County of Maricopa     )

ss.

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned Notary Public, appeared \_\_\_\_\_, to me known (or satisfactorily proven) to be the person who executed the foregoing instrument and acknowledged that they executed the same as and for their free acts and deeds for the purposes contained therein.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Approved as to the content:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kyle Seedorf, Esq.  
Attorney for Byron Epp, Inc.



Approved as to the content:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lynn M. Allen, Esq.  
Attorney for DH Pace Company, Inc.

\_\_\_\_\_  
Caliente Construction, Inc. Representative

\_\_\_\_\_  
Title

STATE OF ARIZONA     )  
  )  
County of Maricopa     )

ss.

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned Notary Public, appeared \_\_\_\_\_, to me known (or satisfactorily proven) to be the person who executed the foregoing instrument and acknowledged that they executed the same as and for their free acts and deeds for the purposes contained therein.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Approved as to the content:

\_\_\_\_\_  
Date

\_\_\_\_\_  
William A. Nebeker, Esq.  
Attorney for Caliente Construction, Inc.